

**House Select Committee
on the
Use of 911 Funds**

A meeting of the House Select Committee on the Use of 911 Funds was called to order by Representative Allen, Co-Chair, at 10:00 am on February 23, 2010, in Room 1228 Legislative Building.

Members present included Co-Chair Representative Angela Bryant; Co-Chair Representative Lucy Allen; Representative Lorene Coates; Representative Bill Faison; Representative Efton Sager; Representative Roger West.

Staff present included: Heather Fennell, Gayle Moses, Peter Capriglione, Steve Rose, Karlynn O'Shaughnessy, Bill Patterson, and Committee Clerk supervisor Nancy Goodman.

Representative Allen welcomed everyone. She thanked the Sergeant-at-Arms for their assistance.

Representative Allen introduced Penny McGhee Young, Chair of the Franklin County 911 Commission, and Christy Shearin, Director of Franklin County Emergency Management.

Representative Allen asked if there were any additions or corrections to the January 26, 2010, meeting's minutes. Representative Bryant moved the minutes be approved and Representative Sager seconded the motion. The minutes were approved unanimously.

Representative Allen recognized Richard Taylor, Executive Director of the 911 Board. Mr. Taylor made a PowerPoint presentation which is Attachment #1. A detailed report by county is Attachment 1A.

Representative Bryant asked Mr. Taylor to remind the committee what the 911 Board's authority is in regards to this fund balance. Mr. Taylor stated that this fund balance is held by the PSAPs and the 911 Board has no authority. Representative Bryant followed up and asked what money is used by the 911 Board for per capita distribution and grants. Mr. Taylor stated that grant money is from the Carrier Cost Recovery Fund that is transferred out of the Wireless Carrier Cost Recovery Fund into the grant fund. Also additional money left over from the PSAP fund is also used for grants. This past year the \$7 million balance in the PSAP fund and \$9 million in the Carrier Cost Recovery Fund was used for funding grants. Representative Bryant followed up with a request for clarification on how the money outlined in the PowerPoint presentation is different from the Carrier Cost Recovery Fund. Mr. Taylor responded that the money in the PowerPoint presentation is revenues that are reported to the NC Treasurer's Office as a combination of wirelines and wireless revenue that the county received. When the transition was made from the county-to-county multi-rate to a flat rate, this was the one way to ensure that each PSAP would not be harmed by changing the rate to \$.70.

Representative Bryant requested clarification on the following statement that this is the money that counties get from the \$.70 flat rate and this money is restricted by statute. Mr. Taylor confirmed her statements. Representative Bryant wanted clarification on the Carrier Cost Recovery Fund. Mr. Taylor stated that a percentage of the money received from wireless carriers is deducted from that \$.70 to use for wireless carrier cost recovery to ensure they are paid for their expenses in deploying wireless 911. All of the money received from the wireline carriers as well as the percentage left over from the wireless carriers are put into the PSAP Fund. This PSAP fund is used to pay the PSAPs their baseline (the amount registered on June 30, 2007).

Representative Coates stated that she understands that a person cannot text to a 911 center and get through. Mr. Taylor confirmed her statement. Representative Coates followed up that she believes there is technology that can accept text messages, but it is expensive at this time. Mr. Taylor confirmed her statement. At this time, the 911 Board does not have the ability to pay for this text message technology. Local PSAPs could pay for the text message technology if they had the funding to do so. The problem would be one county could accept text messages and the adjacent counties would not causing confusion for the local user because of inconsistencies in the levels of service. Representative Coates asked if it was true that when cell phones call 911 it goes to the place of service registration and not the place where the call originates. Mr. Taylor stated that this was not true. Cell phone calls are routed from the nearest tower to the nearest PSAP to that particular tower. In NC today, even cell phones that are not in service still have the capability of calling 911 and the call is routed to the proper PSAP for assistance. This is not true with landlines that have been disconnected.

Representative Bryant asked Mr. Taylor for a comparison of the fund balance (\$91 million) discussed in his PowerPoint presentation and the fund balance of the money used for grants (~\$20 million). Mr. Taylor stated that the \$20 million includes Carrier Cost Recovery Fund, PSAP Fund and Administrative Fund for the 911 Board.

Representative Allen asked about ONSTAR service. It is her understanding that the owner of the vehicle calls ONSTAR and ONSTAR calls the local 911 service. Have there been any difficulties with this arrangement? Mr. Taylor stated that ONSTAR has been a proactive telematic company and they are working with third party providers. ONSTAR can now put their calls into the native 911 network. The ONSTAR call center for ¾ of the United States is in Charlotte, NC.

Representative Faison stated that as he understands, a subcommittee of the 911 Board came up with recommendations for how to expand 911 funding. Mr. Taylor stated that they had a 911 Study Group as well as a Legislative Group. Representative Faison stated that the recommendations were rejected by the 911 Board. Mr. Taylor stated that of the 15 recommendations, only a couple of the recommendations were not approved. Mr. Taylor will present the recommendations to this committee later and he will review draft language at that time. Representative Faison stated that it would help him if Mr. Taylor could tell this committee how the 911 Board will hopefully allow the

counties to expand the use of the funds. Mr. Taylor stated he will speak to this again later.

Representative Bryant asked if there were legal limitations on each county earning interest on their accounts. Mr. Taylor stated that the interest has to stay with the 911 Fund at the county.

Representative Faison asked if we could go ahead and look at what Mr. Taylor and the 911 Board is proposing. This is Attachment 1B.

Representative Allen stated that the next item on the agenda is the Local Government Administration of 911 and introduced Mr. Jim Blackburn who is the counsel to the County Commissioners. Mr. Blackburn stated that the NC Association of County Commissioners has been trying to get from the General Assembly an increase in flexibility for the spending of the 911 Funds. The NC Association of County Commissioners has advocated that spending be consistent with the 911 system. They are aware of the historical roots and intent of the restrictions. Mr. Blackburn was told by a member of the NC Senate last year that the legislative intent can be changed and the time has come. What has not been done is telling you how specifically the NC County Commissioners would like to change the list of expenditures. The following three people who will be presenting are representatives from the NC Association of County Commissioners and are experts and practitioners of emergency management at the local level: Lee Worsley, Catawba County Assistant County Manager; Christy Shearin, Director of Franklin County Emergency Communications; and Randy Keaton, Pasquotank County Manager.

Lee Worsley thanked the committee for the opportunity to talk about having flexibility to spend 911 funds. He will be using a real world situation to show the committee how the 911 system works from the call taking process to the dispatch and any portion that does not work is not good for the citizens of our communities. His presentation is attached (Attachment #2).

Representative Allen asked how expansion of the use of the 911 funds would have specifically helped in this real life situation. Mr. Worsley stated that Catawba County was lucky because it had the necessary radios, but he was also a county manager in Greene County where this type of radio equipment was not available due to funds. The coordination of radio traffic would not have been possible if this had occurred in the Greene County and the outcome would not have been positive.

Representative Bryant asked if Catawba had a larger fund balance than most, how would the use expansion help his county? Mr. Worsley stated that they would be able to upgrade quicker and stay abreast of changing technology. Although it is a large county, they are restricted in using the funds for radios. Representative Bryant asked for clarification of Hickory Police being a secondary PSAP in this situation. Mr. Worsley stated that they are a secondary PSAP and are dependent on funding from Catawba County. Catawba County has told Hickory Police they will no longer fund them because

they believe in a consolidated approach with Catawba County being the sole PSAP. Representative Bryant concluded that the secondary PSAP issue should be considered in what this committee is reviewing.

Christy Shearin was introduced and she wanted to show the members of the committee the equipment needed and how/who funds each piece. Her PowerPoint presentation is attached (Attachment #3).

Representative Coates asked for confirmation on the status of fund availability for furniture. Furniture is not an allowable expense except in limited situations, e.g. percentage of desk that holds the allowable equipment.

Randy Keaton was introduced. He will review the 911 Study Committee and the key findings. The PowerPoint presentation is attached (Attachment #4).

Representative Faison stated that the presentations seem to be an overwhelming request to expand funding. He would like to hear why funding should NOT be increased. Mr. Keaton could not give an answer.

Representative Coates commented that some counties have implemented a \$.025 sales tax to buy their radios and towers. There are expenses inside the building that are not taken care of, like for example training. Most centers are not large enough and do not have room to expand.

Representative Allen introduced Dwight Allen, representative of the Telecommunication Providers and speaking on behalf of AT&T, Verizon, Century Link. Collectively, these companies provide access to 95% of the consumers in NC. In 1989, telecommunication businesses were approached by the General Assembly and local governments regarding the fact that the 911 system in NC was manual. Most states had gone to an electronic system that had automatic number and location identification. NC did not have named streets and roads in rural counties and this would be necessary for the automatic number and location identification. Telecommunication businesses met with cities, counties, PSAP operators and the General Assembly. The compact that was reached with the telecommunication businesses and the cities, counties, etc. was if you will let us make a surcharge on the telephone bill, we will have the money to name streets and put in the equipment to receive the call. We do not expect you to dispatch because we already have a dispatch system. This dispatch system is not used exclusively for emergency 911, but for a multiplicity of county services. It makes no sense to finance the dispatch system on the backs of telephone customers. The telecommunication business is involved with this because (almost) half of telephone service is a government surcharge of one type or another. In most cases, the money does not even go to the telephone company. In 1989 telephone businesses were monopoly providers and everyone had to pay. In 1989 e-911 systems were largely a telephone company operation as they had the database, dispatching information, all of the data was stored with the telephone company. Mr. Blackburn stated earlier that the General Assembly could change the statute anytime they wanted to, but that would

violate the compact that was made in good faith with the telephone businesses in 1989. Since 2000, telephone businesses have lost more than 2 million customers to competition. Verizon has announced they are selling their landline business to a rural telephone company, Embarq has been sold to another telephone company and Lexcom, Concord Telephone Company, Piedmont TMC, and Citizens Telephone Company have disappeared. Almost one thousand jobs in NC have disappeared. The e-911 surcharge is part of the problem because each line has a surcharge and people are looking for ways to cut their bills. Most of the jobs lost are high paying rural jobs. The telecommunication business world has changed since 1989 and is now part of a competitive industry. Should the telecommunication industry be eliminated from the e-911 equation, consider putting in place a special use tax. In 2007, the telephone industry supported the changes the General Assembly came up with to revamp the 911 system.

The question was asked as to why the dispatch is not a part of the e-911 system. The compact in 1989 said dispatch was not a part of the collected revenues because it was being provided by governmental revenues and dispatch is a governmental service. The dispatch system is used for more services than just e-911. The changes in 2007 were good changes and an example of what public and private entities can do when they work together. The 911 Board have come up with good ideas and will move the e-911 system from a local government operation to a state government function. This will make equipment prices cheaper, and eliminate the number of local PSAPs (fire, police, sheriff, and military).

Representative Faison stated that as he understands, the General Assembly imposed a fee that is collected from customers for 911. As a representative of the telecommunication businesses, Mr. Allen stated that this fee is being collected on the back of phone company customers. Representative Faison was under the impression the fee was being collected from the people who actually benefited from the service. Mr. Allen stated that "it is being done on the back of the phone companies because the fee is on the phone bills and customers think it is money going to the telephone company and customers blame the telephone company, not the General Assembly or the counties". Mr. Allen stated that this makes the phone companies a tax collection agency and makes the telephone companies loose customers.

Representative Faison stated that in the last decade, the state has grown by almost 1 million people and the number of phones has also grown as well. Although there has been shrinkage in landlines, there has been a significant increase in wireless and VoIP. Most of the landline companies now have a wireless division and if each telephone number is a line, the overall number of lines has increased. The total amount of money being paid in by the people of the state for their 911 protection is being done through their multiple phone bills. Given that the 911 System has been successful, why does the telecom industry care how the money is spent? Mr. Allen stated the telecom industry cares because for the last 20 years they have come to the General Assembly arguing against expanding uses and increasing 911 fees. If we have an absolute assurance that the fee currently collected by the phone companies will not increase above the

current \$.70, the telephone industry will agree to expand uses. If the General Assembly expands the uses, local governments will want to increase the fees and this will go on the phone bills which will ultimately cause phone companies to lose customers. If the \$.70 fee is taken off of the phone bill, the telecom companies would not care how the money is used.

Mr. Allen stated that the telecom industry has examined the 911 Board's recommendations. The telecom industry hopes the General Assembly will approach their recommendations in two phases. The first phase would look at the existing funds that are now on deposit. When the General Assembly made the changes in 2007, they made a mistake causing a surplus of \$92 million. This \$92 million is because telephone rate payers have been overcharged. In 2007 there were excess monies not spent that were turned over to counties for use in their general fund. The 911 Board has recommendations to fix this \$92 million mistake. The second phase is how to come up with a funding mechanism to finance the 911 system and keep the system consistent and updated. The 911 Board recommendations include standards. We must make sure we fund systems to a standard and keep them updated. The 911 system needs to move to a text system and get away from radios. We need to come up with a long term system to pay for new and changing technology and then this must be prioritized.

Representative Bryant thanked Mr. Allen for his perspective.

Representative Allen introduced Tonya Pierce, representative of the National Emergency Number Association (NENA) North Carolina Chapter. NENA's concern is that all NC 911 call centers, PSAPs, are not operating where they should be. At this time, as you travel across the state, you are not guaranteed the same standard of service when you call 911. The Computer Aided Dispatch system (CAD) helps the person at the 911 center keep up with the call. It helps the dispatcher send the right people, keep the field units on track, send for needed resources and additional people. CAD is typically what maps are associated with. CAD systems are expensive and the last upgrade done in her area cost \$500,000. NENA is concerned there are no standards in the 911 system. Because all counties do not offer the same standard of service, it is impossible to create a funding model. NENA supports the recommendations of the 911 Board and hopes the General Assembly will consider them. NENA would like to create a standard of service before allowing an expansion of fund uses.

Representative Allen re-introduced Richard Taylor who made a Power Point presentation on the NC 911 Board proposed changes to emergency telephone service (Attachment #5).

Representative Bryant asked for clarification of the chart in his presentation. Mr. Taylor stated that the column labeled "Annual Distribution Current Model" was the amount of money distributed to counties from the 911 Fund. The column labeled "FY2009 Expenditures" was the actual amount spent by the counties on eligible 911 items. In the case of Alamance County, they received an annual distribution of \$683,485.00 and actually spent \$888,211.55. The \$204,726.55 difference between money received from

the distribution and the money actually spent was made up by Alamance County using their fund balance that has accumulated at the county since the 2007 change.

Representative Faison asked about the 10 counties with \$0.00 FY2009 Expenditures. Mr. Taylor stated that those counties did not send expenditure reports.

Mr. Taylor continued with the chart and stated that the Current Annual Model distributed \$63,273,118.35 to counties. The 911 Board is proposing to change the distribution model to recurring expenses made by the county plus 10%. This distribution would have the 911 Board distributing \$43,173,792.32. The ~\$20 million difference would be used for capital expenditures or operating expense requests by each county.

Another recommendation would be for the General Assembly to give a one year expansion of fund uses from July 1 to June 30. This would include telephone equipment, notification systems, computer hardware, software and database provisioning, addressing and nonrecurring costs of establishing a 911 system and telecommunicator furniture. After PSAP satisfied the foregoing costs, then the lease, purchase or maintenance of radio communications equipment and no more than 25% of the cost of base station transmitters, towers, microwave links and antennae shall be eligible expenditures. The following year microwave links, towers and base stations would no longer be eligible. The exception would be that once a 911 center met all standards, they would be eligible to spend their additional funding on radio equipment within the center. Also eligible would be training for supervisors and managers.

Another recommendation would give the 911 Board the power to allocate funds for statewide projects that are consistent with the 911 plan.

The 911 Board wanted the ability to adjust the \$.70 fee to \$.60 taking effect on July 1, 2010. This rate will not effect the current 911 Center funding nor will it negatively impact the cost recovery for wireless carriers. At this time, a lot of money is going into the Wireless Carrier Cost Recovery Fund. Initially, all of the wireless carriers were seeking cost recovery for their equipment upgrades. Today we are down to only six carriers who are seeking cost recovery and that fund is building up. Over the last 10 years, money that has been taken out of the 911 Fund to be used to balance the state budget has come from the Wireless Carrier Cost Recovery Fund. We are trying to keep this fund balance down.

Representative Faison asked that they reconsider lowering the fee to \$.60. He believes that once this plan gets going, the 911 Board will see that the \$.70 fee is needed and will be difficult to get it back.

Representative Bryant appreciates the 911 Board's proposals and it is a good starting point. We know now the 911 Board's rationale and other stakeholders can respond.

Representative Coates asked if it were true that a former Governor and legislature have taken some of the 911 funds in the past and that they were never repaid. Mr. Taylor confirmed that none of the 911 Funds have been repaid by the state.

Representative Allen thanked everyone and there being no further business, the meeting was adjourned.

Respectfully submitted,

Representative Angela Bryant, Co-Chair

Representative Lucy Allen, Co-Chair

Susan H. Whitehead, Committee Clerk